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SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 4697/LA4/83. *Dated, Trivandrum, 15th June* 1983.

The Kerala Motor Vehicles (Taxation of Passengers and Goods) Revival and Special Provisions Bill, 1983, together with the Statement of Objects and Reasons, the Financial Memorandum and the Memorandum regarding Delegated Legislation is published, under Rule 69 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

DR. R. PRASANNAN,
Secretary,
Legislative Assembly.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1983.

33/2241/MCs

Seventh Kerala Legislative Assembly

Bill No. 44

THE KERALA MOTOR VEHICLES (TAXATION OF PASSENGERS AND GOODS) REVIVAL AND SPECIAL PROVISIONS BILL, 1983

A

BILL

to revive and amend the Kerala Motor Vehicles (Taxation of Passengers and Goods) Act, 1963 and to make certain special provisions for the levy and collection of tax on goods carried or hauled by articulated vehicles, tractor-trailer combinations, tiller-trailer combinations and trailers drawn by any other motor vehicle, for the period during which the said Act was in force.

Preamble.—Whereas in Writ Appeals Nos. 39 and 40 of 1975, a Division Bench of the Kerala High Court has held that tractor-trailer combinations could not be said to be goods vehicles within the meaning of that expression in the Kerala Motor Vehicles (Taxation of Passengers and Goods) Act, 1963;

And whereas the Kerala Motor Vehicles (Taxation of Passengers and Goods) Act, 1963, has been repealed by section 30 of the Kerala Motor Vehicles Taxation Act, 1976;

And whereas it has become necessary in the light of the said decision of the Kerala High Court, to revive and amend the Kerala Motor Vehicles (Taxation of Passengers and Goods) Act, 1963, for the purposes of levy and collection of tax under that Act on goods carried or hauled by articulated vehicles, tractor-trailer combinations, tiller-trailer combinations and trailers drawn by any other motor vehicle, for the period commencing on the 1st day of July, 1963 and ending with the 30th day of September, 1975;

Be it enacted in the Thirty-fourth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Motor Vehicles (Taxation of Passengers and Goods) Revival and Special Provisions Act, 1983.

(2) It extends to the whole of the State of Kerala.

(3) It shall be deemed to have come into force on the 22nd day of January, 1983.

2. *Interpretation.*—All words and expressions used in this Act shall have the meanings respectively assigned to them in the Kerala Motor Vehicles (Taxation of Passengers and Goods) Act, 1963, as revived and amended by this Act.

3. *Revival of Kerala Act* 25 *of* 1963 *and rules made thereunder for certain purposes.*—The Kerala Motor Vehicles (Taxation of Passengers and Goods) Act, 1963 (25 of 1963) (hereinafter referred to as the said Act) and the rules made thereunder are hereby revived and shall be, and shall be deemed always to have been, in force subject to the amendments and special provisions hereinafter contained, for the purposes necessary for, and ancillary to, the levy and collection of tax on goods carried by articulated vehicles, tractor-trailer combinations, tiller-trailer combinations and trailers drawn by any other motor vehicle, for the period commencing on the 1st day of July, 1963 and ending with the 30th day of September, 1975.

4. *Amendment of Act* 25 *of* 1963.—In the said Act,—

(1) in section 2,—

(i) for clause (a), the following clauses shall be substituted, namely:—

"(a) "articulated vehicle" means a tractor to which a trailer is attached in such a manner that a part of the trailer is super-imposed on, and a part of the weight of the trailer is borne by, the tractor;

(ai) "carriage", with its grammatical variations and cognate expressions, includes haulage;

(aii) "goods vehicle" means any motor vehicle constructed or adapted for use for the carriage of goods solely or in addition to passengers or any motor vehicle not so constructed or adapted when used for the carriage of goods solely or in addition to passengers, and includes an articulated vehicle, a tractor-trailer combination, a tiller-trailer combination and a trailer drawn by any other motor vehicle when used for the carriage of goods;";

(ii) for clause (e), the following clause shall be substituted, namely:—

"(e) "public carrier vehicle" means a goods vehicle carrying goods for hire or reward;";

(2) in section 3, for the word "transported", in both the places where it occurs the word "carried" shall be substituted;

(3) for section 4, the following section shall be substituted, namely:—

"4. *Composition of tax.*—The operator may, at his option, compound the tax payable by him under sub-section (3) of section 3 by paying in lieu thereof, a fee fixed in the manner specified in the Schedule, to the prescribed

officer or to any other officer authorised by the Government in this behalf by notification in the Gazette, before the expiry of a period of ninety days from the commencement of this Act.";

(4) in section 14, for the word "transported", the word "carried', shall be substituted.

5. *Special provisions in respect of tax on tractor-trailer combinations.*—(1) Notwithstanding anything to the contrary contained in the said Act or the rules made thereunder, the following provisions shall apply in respect of the tax under the said Act on goods carried by articulated vehicles, tractor-trailer combinations, tiller-trailer combinations and trailers drawn by any other motor vehicle, for the period commencing on the 1st day of July, 1963 and ending with the 30th day of September, 1975.

(2) The tax referred to in sub-section (1) shall be levied on all goods carried by articulated vehicles, tractor-trailer combinations, tiller-trailer combinations and trailers drawn by any other motor vehicle, at the rates specified in or under the said Act from time to time:

Provided that no tax shall be levied on goods which were exempt from the levy of tax by or under the said Act.

(3) Notwithstanding anything contained in sub-section (1), any tax levied and assessed under the said Act before the commencement of this Act or any goods referred to in that sub-section shall be deemed to have been levied and assessed under the said Act as revived and amended by this Act, and if any tax on such goods has already been paid, the tax so paid shall be adjusted as provided in section 6 towards the tax payable under the said Act as revived and amended by this Act.

(4) The operator of every articulated vehicle, tractor-trailer combination, tiller-trailer combination or trailer drawn by any other motor vehicle, in respect of which tax is payable under the said Act as revived and amended by this Act shall, within a period of ninety days from the date of commencement of this Act apply to the prescribed officer or to any other officer authorised by the Government in this behalf by notification in the Gazette, for assessment of the tax payable by him under the said Act as revived and amended by this Act with a return in the form prescribed under the said Act.

(5) If any operator fails to apply or file the return as required by sub-section (4), the prescribed officer or the officer authorised by the Government under that sub-section shall, after making such inquiry as he deems necessary and after giving the operator an opportunity of being heard, assess the tax payable by the operator to the best of his judgement.

(6) Notwithstanding any provisions regarding limitation in the said Act or in the rules made thereunder, the tax due under the said Act as revived and amended by this Act may be levied and assessed within a period of ten years from the commencement of this Act and recovered in the manner provided under the said Act and the rules made thereunder.

6. *Adjustment of tax already collected.*—(1) The amount of tax on goods carried by any articulated vehicle, tractor-trailer combination, tiller-trailer combination or trailer drawn by any other motor vehicle, for the period commencing on the 1st day of July, 1963 and ending with the 30th day of September, 1975, collected from any operator or other person under the said Act, shall be adjusted towards the tax due from him for the said period under the said Act as revived and amended by this Act.

(2) If such tax collected from an operator or other person under the said Act is less than the amount of tax due under the said Act as revived and amended by this Act, only the balance shall be recovered from him and if the tax so collected is in excess, such excess shall be refunded to him.

7. *Saving.*—Nothing contained in this Act shall render any person liable to be convicted of an offence in respect of anything done or omitted to be done by him before the commencement of this Act.

8. *Repeal and Saving.*—(1) The Kerala Motor Vehicles (Taxation of Passengers and Goods) Revival and Special Provisions Ordinance, 1983 (13 of 1983), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the said Ordinance or under the said Act as revived and amended by the said Ordinance shall be deemed to have been done or taken under this Act or, as the case may be, under the said Act as revived and amended by this Act.

STATEMENT OF OBJECTS AND REASONS

Under the Kerala Motor Vehicles (Taxation of Passengers and Goods) Act, 1963, tax was leviable in respect of passengers, luggages and goods carried by stage carriages on all goods transported by goods vehicles. In the above Act, "Goods Vehicle" was defined as "any motor vehicle constructed or adapted for use for the carriage of goods or any motor vehicle not so constructed or adapted when used for the carriage of goods, solely or in addition to passengers.". The said Act was repealed by the Kerala Motor Vehicles Taxation Act, 1976.

2. During the period when the Kerala Motor Vehicles (Taxation of Passengers and Goods) Act, 1963, was in force, tax was being levied on goods carried or hauled by articulated vehicles, tractor-trailer combinations, tiller-trailer combinations and trailers drawn by any other motor vehicle. But certain operators challenged the validity of levying tax in respect of tractor-trailer combinations on the ground that they are not goods vehicles as defined in the above Act. The Hon'ble High Court of Kerala in Writ Appeals Nos. 39 and 40 of 1975 held that tractor-trailer combinations could not be said to be goods vehicle within the meaning of that expression in the Kerala Motor Vehicles (Taxation of Passengers and Goods) Act, 1963. In view of the decision of the High Court, the tax due under the said Act in respect of tractor-trailer combinations could not be collected. To remove the legal impediment it was considered necessary to revive and amend the Kerala Motor Vehicles (Taxation of Passengers and Goods) Act, 1963 and to make certain special provisions for the purpose of levy and collection of tax on goods carried or hauled by articulated vehicles, tractor-trailer combinations, tiller-trailer combinations and trailers drawn by any other motor vehicle for the period commencing on the 1st day of July, 1963 (the date of commencement of the said Act) and ending with the 30th day of September, 1975 (the date of repeal of that Act).

3. As the Legislative Assembly was not in session and immediate action in the matter was considered necessary, the Kerala Motor Vehicles (Taxation of Passengers and Goods) Revival and Special Provisions Ordinance, 1983 (3 of 1983) was promulgated by the Governor on the 20th day of January, 1983, for the above purpose. Though a Bill to replace the said Ordinance by an Act of the Legislature was published, the same could not be introduced in and passed by the Legislative Assembly during its session which commenced on the 25th February, 1983 and ended on the 30th March, 1983. To keep alive the provisions of the said Ordinance, the Governor has re-promulgated the Kerala Motor Vehicles (Taxation of Passengers and Goods) Revival and Special Provisions Ordinance, 1983 (13 of 1983) on the 6th day of April, 1983. The Bill seeks to replace Ordinance 13 of 1983 by an Act of the Legislature.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any expenditure from the Consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Section 4 proposed to be incorporated in the Kerala Motor Vehicles (Taxation of Passengers and Goods) Act, 1963 (25 of 1963), by sub-clause (3) of clause 4 of the Bill provides that the operator may, at his option, compound

the tax payable by him under sub-section (3) of section 3 by paying in lieu thereof, a fee fixed in the manner specified in the Schedule, to the prescribed officer or to any other officer authorised by the Government in this behalf by notification in the Gazette.

Sub-clause (4) of clause 5 of the Bill seeks to provide that the operator of every articulated vehicle, tractor-trailer combination, tiller-trailer combination or trailer drawn by any other motor vehicle, in respect of which tax is payable, shall within the period specified in that sub-clause apply to the prescribed officer or to any other officer authorised by the Government in this behalf by notification in the Gazette, for assessment of the tax payable by him with a return in the prescribed form.

The matters in respect of which rules may be made and notifications may be issued are matters of administrative nature. The delegation of legislative power is therefore of a normal character.

M. K. BALAKRISHNAN

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SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 5495/LA4/83. *Dated, Trivandrum, 15th June,* 1983.

The Kerala Revenue Recovery (Amendment) Bill, 1983 together with the Statement of Objects and Reasons and the Financial Memorandum is published, under Rule 69 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

DR. R. PRASANNAN,
Secretary,
Legislative Assembly.

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33/2239/MC.

Seventh Kerala Legislative Assembly

Bill No. 42

THE KERALA REVENUE RECOVERY (AMENDMENT) BILL, 1983

A

BILL

to amend the Kerala Revenue Recovery Act, 1968.

Preamble.—WHEREAS it is expedient to amend the Kerala Revenue Recovery Act, 1968, for the purposes hereinafter appearing;

BE it enacted in the Thirty-fourth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Revenue Recovery (Amendment) Act, 1983.

(2) It shall be deemed to have come into force on the 22nd day of February, 1983.

2. *Amendment of section* 7.—In section 7 of the Kerala Revenue Recovery Act, 1968 (15 of 1968) (hereinafter referred to as the principal Act), for the words "shall show the demand in writing to the defaulter", the words "shall serve the demand in writing on the defaulter" shall be substituted.

3. *Amendment of section* 74.—In section 74 of the principal Act, for the words "notice or order", wherever they occur, the words "notice, demand or order" shall be substituted.

4. *Repeal and saving.*—(1) The Kerala Revenue Recovery (Amendment) Ordinance, 1983 (15 of 1983), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

Section 7 of the Kerala Revenue Recovery Act, 1968 provided that the persons employed to make the attachment of movable properties shall show the demand in writing to the defaulter and that if he falls to remit the amount in arrear together with the interest thereon and the cost of process immediately, the demand in writing shall be the authority for making the attachment. Experience has revealed that the procedure prescribed in section 7 of the Act to show the demand in writing to the defaulter, prevents the Revenue Officers from invoking the provisions of the Revenue Recovery Act for attaching crops like cardamom of the defaulters who are not in station. It was, therefore, considered necessary to amend section 7 of the Act to provide for service of the demand in writing on the defaulter.

2. Section 74 of the Act, which lays down the procedure for the service of notice, specifically referred to "notice" and "order" only. Section 7 refers only to "demand" and therefore it was considered necessary to specifically mention "demand" also in section 74.

3. As the Legislative Assembly was not in session and as the above amendments had to be made immediately, the Kerala Revenue Recovery (Amendment) Ordinance, 1983 (9 of 1983) was promulgated by the Governor on the 22nd February, 1983. A Bill to replace that Ordinance could not be introduced in and passed by the Legislative Assembly during its last session and therefore would have ceased to operate on the 7th April, 1983, that is, at the expiration of six weeks from the reassembly of the Legislature after the Promulgation of the Ordinance. In order to keep alive the amendments made by the said Ordinance, the Kerala Revenue Recovery (Amendment) Ordinance, 1983 (15 of 1983) was promulgated by the Governor on the 6th day of April, 1983 and published in the Kerala Gazette Extraordinary No. 416 dated the 7th April, 1983.

4. The Bill seeks to replace Ordinance 15 of 1983 by an Act of the State Legislature.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any expenditure from the Consolidated Fund of the State.

P. J. JOSEPH

Reg. No. KL/TV(N)/12

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SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 5496/LA4/83. *Dated, Trivandrum, 15th June*, 1983.

The Kerala Municipalities (Amendment) Bill, 1983 together with the Statement of Objects and Reasons and the Financial Memorandum is published, under Rule 69 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

DR. R. PRASANNAN,
Secretary,
Legislative Assembly.

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33 . 110/MC

Seventh Kerala Legislative Assembly
Bill No. 43

THE KERALA MUNICIPALITIES (AMENDMENT) BILL, 1983

A

BILL

further to amend the Kerala Municipalities Act, 1960.

Preamble.—WHEREAS it is expedient further to amend the Kerala Municipalities Act, 1960, for the purpose hereinafter appearing;

Be it enacted in the Thirty-fourth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Municipalities (Amendment) Act, 1983.

(2) It shall be deemed to have come into force on the 30th day of September, 1982.

2. *Amendment of section* 412.—In sub-section (2) of section 412 of the Kerala Municipalities Act, 1960 (14 of 1961) (hereinafter referred to as the principal Act), for the words "Forty-five months", the words "seventy-two months" shall be substituted.

3. *Repeal and saving.*—(1) The Kerala Municipalities (Amendment) Ordinance, 1983 (10 of 1983), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

According to sub-section (2) of section 412 of the Kerala Municipalities Act, 1960, the special officer appointed for a newly constituted municipality shall cause arrangements for election to be made so that the newly elected councillors may come into office on a day within six months or such further time not exceeding forty-five months as the Government may, by notification in the Gazette, specify in this behalf, from the date on which the notification

under sub-section (3) of section 4 of the Act declaring the area to be a municipality takes effect. The Manjeri and Kothamangalam Municipalities were constituted with effect from the 1st April, 1978. In the case of those municipalities, the maximum period of forty-five months specified in sub-section (2) of section 412, within which the newly elected councils shall come into office, expired on 31-12-1981. The election of the councillors of the said municipalities had been postponed by the Government by notifications issued, from time to time, under sub-section (2) of section 412 of the Act, till the 31st December, 1981. As it was decided to postpone the election of the councillors of the said Municipalities for a further period till the final census figures were made available, sub-section (2) of section 412 was amended by the Kerala Municipalities (Amendment) Ordinance, 1981 (6 of 1981), substituting the said period of forty-five months by fifty-four months. Accordingly, notifications were issued by the Government extending the period before which elections are to be held to the councils of the newly constituted municipalities upto 30-9-1982. Though the Kerala Municipalities (Amendment) Bill, 1981, which sought to replace the said Ordinance was published, the Bill could not be introduced in the Sixth Kerala Legislative Assembly and got passed before its dissolution for want of time. Therefore, the Ordinance lapsed on 11-3-1982 ie., at the expiration of six weeks from the reassembly of the Legislative Assembly after the promulgation of the Ordinance, and the amendment made by the Ordinance had ceased to have effect.

2. As in the case of the Manjeri and Kothamangalam Municipalities, the period of forty-five months specified in sub-section(2) of section 412 of the Act expired in the case of the Thodupuzha Municipality on 31-5-1982 and in the case of the Pathanamthitta Municipality on 30-6-1982.

3. The election to the council of the Manjeri Municipality has since been conducted. The Government have decided to postpone the election to the councils of the Kothamangalam, Thodupuzha and Pathanamthitta Municipalities for a further period. However, the election to the councils of those municipalities could not be further postponed beyond the 30th September, 1982, without amending sub-section (2) of section 412 of the Kerala Municipalities Act.

4. As the Legislative Assembly was not in session and as the matter could not wait till the next session of the Legislative Assembly, the Kerala Municipalities (Amendment) Ordinance, 1982 (2 of 1982), was promulgated by the Governor on the 30th day of September, 1982, to achieve the above object.

5. A Bill to replace the said Ordinance by an Act of the Legislature was published in the Gazette. But the Bill could not be introduced in and passed by the Legislative Assembly during its last session which commenced on the 25th February, 1983 and ended on the 30th March, 1983, for want of time. Therefore, the said Ordinance would have ceased to operate on the 7th April, 1983 ie., at the expiration of six weeks from the reassembly of the Legislature after the promulgation of the Ordinance.

6. It was considered necessary to keep alive the amendment made by the said Ordinance and therefore the Kerala Municipalities (Amendment) Ordinance, 1983 (10 of 1983) was promulgated by the Governor on the 6th day of April, 1983, and published in the Kerala Gazette Extraordinary No. 411 dated the 7th April, 1983. The Bill seeks to replace Ordinance 10 of 1983 by an Act of the State Legislature.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any expenditure from the Consolidated Fund of the State.

C. M. SUNDARAM

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